

State of Rhode Island and Providence Plantations

Derelict and Abandoned Vessel and Obstruction Removal Commission

Proposed Minutes of the Rhode Island Derelict and Abandoned Vessel and Obstruction Removal Commission Meeting

Held on June 16, 2014

Members in attendance:

Steven Hall, Chair

Danni Goulet, Member and

Tom Kutcher, Member

Tim Mills, Member

Don Vivenzio, Member

Others in attendance:

**Gary Powers, Legal Counsel to the Commission and Secretary, Pro
Hoc Vice**

Christian Capizzo, SAAG

Rachel Gaudio, Intern RIAG's Office

**Quorum being present, the Chair called the Meeting to order at
approximately 8:42 a.m. in the conference room located on the 2nd
Floor in DEM's Wickford Marine Base which is located at 150 Fowler
Street, North Kingstown, RI.**

Consistent with the proposed agenda for the meeting, the

Commission proceeded as follows:

1. The Commission unanimously approved the proposed minutes of the March 20, 2014 meeting of the Commission on a motion by Commissioner Goulet that was seconded by Commissioner Kutcher. (A copy of minutes as approved is attached.)

2. The Chair advised the Commission that no applications for the award of funding from the Derelict and Abandoned Vessel and Obstruction Removal Account had been received. The Chair suggested that it might be appropriate for Commissioner Mills to reach out to his fellow harbormasters as to the availability of the potential funding from the Account. Commissioner Mills enthusiastically agreed.

3. The Chair then inquired as to whether the Commission was inclined to address the issue of the Derelict and Abandoned Vessel and Obstruction Removal Commission Rules and Regulations as adopted. Commissioner Goulet indicated that he was and noted that as he had observed in earlier e-mail correspondence, he believed that that the final form of the Regulations was substantially modified from that which the Commission had proposed to the DEM Director. Commissioner Goulet stated that in his opinion the final version was less transparent. He suggested that the regulations as proposed to the Director were similar to the procedure utilized relative to proposed decisions that are presented to the Director after deliberations by the Rhode Island Marine Fisheries Council which calls for the Director to provide for a written explanation when he/she

elects to rejects a recommendation from the Rhode Island Marine Fisheries Council.

4. The Chair then noted that the Commission differs from the Rhode Island Marine Fisheries Council in that the RIMFC has a number of federal databases upon which the Council's recommendations are based. In addition, the procedure also sometimes brings the RIMFC's recommendations into conflict with the Division of Fish and Wildlife's interpretation of those federal databases thereby frequently leading to multipage explanations by the Division.

5. With permission of the Chair, the Secretary stated that when he/she elects to rejects a recommendation from the Rhode Island Marine Fisheries Council. The Secretary also noted that RIMFC formally possessed rule making authority and was subsequently relegated to a advisory panel by the General Assembly but with the proviso that when he/she elects to rejects a recommendation from the Rhode Island Marine Fisheries Council. However, the Derelict and Abandoned Vessel and Obstruction Removal Commission never was vested with rule making authority. Pursuant to R.I. Gen. Laws § 46-6-10.2 (e) "The commission shall be advisory to the director and shall provide recommendations to the director for fund disbursement."

5. The Chair observed that that the Director had indicated that she was believed that that she had modified the proposed regulations in order to make them consistent with the statute. He also stated that

she had advised him that she believed that ten days as proposed was just too short. Commissioner Goulet indicated that he had no problem with lengthening the time to a more reasonable time for response.

6. The Chair proposed that the best course of action might be for the Commission to consider the applications for the July 2014 cycle and determine what modifications might be necessary.

7. Commissioner Goulet opined that he asked this Commission that were seconded by Commissioner Kutcher and one motion by Commissioner Kutcher that was seconded by Commissioner Goulet to adopt minor modifications in the proposed Regulations. Pursuant to these motions, the Secretary was directed to draft modified Regulations for circulation among the commissioners with the expectation that the proposed Derelict and Abandoned Vessel and Obstruction Removal Commission Rules and Regulations will be presented for review by the Director on Friday, March 21, 2014 once approved by the Commission and authorized by the Chair.

8. No date was scheduled for the next meeting of the Commission. There was discussion of the possibility that a meeting might be conducted in order to draft a guidance document to assist in the filing of applications. However, there was consensus and no motion on the issue given that some of the commissioners suggested that the ease

with which Harbormaster Mills had completed the practice application would indicate that no guidance document would be necessary.

9. At approximately 9:50 a.m., the Commission adjourned on a unanimous vote upon a motion by Commissioner Goulet that was seconded by Commissioner Kutcher.

NEXT SCHEDULED MEETING

The next meeting has not been scheduled.

Respectfully submitted,

Gary Powers, Secretary, Pro Hoc Vice